

REMARKS/ARGUMENTS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 11 and 12 are currently being amended.

This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 11-18 are now pending in this application.

Rejections Under 35 U.S.C. § 103

Claims 11-15 and 17

In Section 4 of the Office Action, Claims 11-15 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ferris (U.S. Patent No. 3,019,763) in view of Smith (U.S. Patent No. 4,250,836). Applicant respectfully traverses the rejection.

The Examiner states, in Section 4 of the Office Action, that Ferris discloses “a plurality of wheeled carriages having a carriage body (i.e. the axle mechanism), which is detachable from the milking parlor frame (as it is well known in the art that axle mechanisms are detachable from frames in order to replace them when damage occurs thereto).” Applicant respectfully disagrees with this analogy and interpretation of the term ‘detachable.’

As used in the respect suggested by the Examiner, virtually any replaceable component of any structure could be said to be ‘detachable.’ For instance, under the Examiner’s definition, a vehicle’s doors, steering wheel, windows, speedometer, transmission, etc. are all detachable. Further, shingles on a roof, a toilet or sink in a bathroom, or the pillars of the Coliseum could all be said to be detachable using a replaceability definition. Applicant asserts that most people

would not consider any of the above-mentioned items, including an axle mechanism, to be detachable because removing them is expensive, takes great effort, and is generally only attempted when repair is necessary. As used by Applicant, the term detachable refers to the ready detachability of the carriages to facilitate quick and efficient installation of the modular milking parlor after transportation.

In addition, MPEP § 2143.01(V.) states that if a “proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” Applicant respectfully asserts that the use of detachable axles in Ferris is a proposed modification that would render Ferris unsatisfactory for its intended purpose. Ferris discloses a milking trailer that is “moved from one farm to the next” (col. 1 line 53) to perform “the entire milking operation for a plurality of farms in a local area.” (Col. 1 lines 10-11). Thus, Ferris discloses a trailer that must be transported multiple times every day in order to serve its purpose. If the axles of the trailer disclosed in Ferris were detachable, as that term is used by Applicant, the trailer would not be safe for any road travel, much less multiple daily road trips. Having detachable axles on the trailer disclosed in Ferris would not make sense, nor serve any purpose. For the invention disclosed in Ferris to serve its purpose in a safe manner, the axles should be as secure and as un-detachable as possible.

In Claims 11 and 12 as currently amended, Applicant claims “a plurality of wheeled carriages temporarily connected to the milking parlor frame, each carriage being detachable from the milking parlor frame upon arrival of the frame at a destination” (Emphasis Added). Applicant respectfully asserts that neither Ferris nor Smith disclose carriages which are “temporarily connected” The “wheels 17” disclosed in Ferris (col. 2 line 32), even though they may be replaceable, are permanent fixtures of the trailer which, if removed, would render the Ferris invention unsuitable for its intended purpose. Smith discloses a “portable corral” (abstract) that includes “a pair of wheels” that move between a “traveling and a deployed position.” (Col. 2 lines 19-25). The wheels disclosed in Smith are permanently connected to the corral. If the wheels in Smith were not permanent fixtures, the Smith invention would be unsuitable for its intended purpose as a “portable corral.” (Abstract; Emphasis Added). Thus,

Applicant respectfully asserts that the applied references do not disclose or suggest “temporarily connected” “wheeled carriages,” and that Claims 11 and 12 are in condition for allowance.

Applicant further respectfully asserts that Claims 13-18, which depend from Claim 12, are also in condition for allowance.

The embodiments claimed in Claims 13 and 14 are specific implementations of the “detachable” “wheeled carriages temporarily connected to the milking parlor frame” (Claim 12). In Claim 13, Applicant claims that “some of the lateral and longitudinal members of the frame base are formed of structural steel beams having a center web extending upwardly.” The Examiner acknowledges that Ferris does not disclose beams as claimed in Claim 13. However, the Examiner goes on to state that it “would have been an obvious matter of design choice to design the frame base [of Ferris] with T-beams since the applicant has not disclosed that the T-beams solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the use of an I-beam or an L-beam.” (Section 4, Office Action). Applicant respectfully disagrees. The specific structure claimed in Claim 13 does have a purpose and does solve a problem. The “center web extending upwardly” (claim 13) allows “wheeled carriages” to be “temporarily connected to the ... frame.” (Claim 12). Applicant also respectfully asserts, as acknowledged by the Examiner, that Ferris does not disclose “structural steel beams having a center web extending upwardly” and further that it would not be obvious to modify Ferris to include such a structure. Applicant respectfully requests that the Examiner withdraw the rejection to Claim 13.

In Claim 14, Applicant claims “one or more holes in the upright webs of the beams of the frame base by which the frame may be connected to the wheeled carriages and supported for transport of the modular parlor.” (Emphasis Added). The “holes” in the “upright webs of the beams” act as a support and connection point for the “wheeled carriages.” (Claim 14). In Section 4 of the Office Action, the Examiner states that Ferris discloses “the use of holes in the frame base (60) with the exception of positively disclosing their positioning within the frame” and that it “would have been obvious ... to place the holes in upright webs of the T-beams of the base” The Examiner’s rationale for this obviousness rejection is that “the recitation with

respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.” Applicant respectfully disagrees with the obviousness rejection and asserts that Ferris does not satisfy Applicant’s claimed structural limitations.

Ferris discloses that a “series of drains 60 are provided in the platform 11 for cleaning the trailer by utilization of the water supply.” (Col. 4 lines 6-7). These drains are illustrated in FIG. 3 of Ferris as large grated openings in the trailer floor. Applicant respectfully asserts that large, grated floor drains in the floor of a trailer are entirely dissimilar to specifically placed “holes in the upright webs of the beams of the frame base by which the frame may be connected to the wheeled carriages,” as claimed by Applicant. (Claim 14). Not only do the drains disclosed in Ferris serve an entirely different purpose, they also do not satisfy Applicant’s claimed structural limitations. The Examiner acknowledges, in Section 4 of the Office Action, that Ferris does not disclose the beam structure claimed by Applicant in Claim 13. Rather, the Examiner states that the use of such a beam structure would be obvious. As discussed above, Applicant respectfully disagrees with this assertion. Further, Ferris does not disclose holes in “members of the frame base.” (Claim 13; Emphasis Added). Rather, Ferris discloses drains “in the platform 11.” (Col. 4 line 6). The platform disclosed by Ferris is not part of a frame or a “frame base.” (Claim 14). For at least these reasons, Applicant respectfully requests that the Examiner withdraw the rejection to Claim 14.

Claims 16 and 18

In Section 5 of the Office Action, Claims 16 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ferris (U.S. Patent No. 3,019,763) and Smith (U.S. Patent No. 4,250,836) in view of van der Lely (U.S. Patent No. 6,044,793). As discussed above, Applicant respectfully asserts that Claim 12 is now in condition for allowance. The combination of Ferris and Smith does not suggest a modular milking parlor with “a plurality of wheeled carriages temporarily connected to the milking parlor frame, each carriage being detachable from the milking parlor frame” (Claim 12). Van der Lely does not disclose or suggest this missing

teaching. Applicant further asserts that Claims 16 and 18, which depend from Claim 12 and include all of the same limitations as Claim 12, are also in condition for allowance.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2350. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2350. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2350.

Respectfully submitted,

Date February 10, 2006

By 

FOLEY & LARDNER LLP
Customer Number: 23524
Telephone: (608) 258-4292
Facsimile: (608) 258-4258

Paul S. Hunter
Attorney for Applicant
Registration No. 44,787